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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,099	05/03/2001	Frank H. Lord	LORD-US1	7081
545	7590	07/15/2004	EXAMINER	
ANTHONY H. HANDAL KIRKPATRICK & LOCKHART, LLP 599 LEXINGTON AVENUE 31ST FLOOR NEW YORK, NY 10022-6030			COFFY, EMMANUEL	
			ART UNIT	PAPER NUMBER
			2157	
DATE MAILED: 07/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,099

Applicant(s)

LORD, FRANK H.

Examiner

Emmanuel Coffy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the application filed on October 2nd, 2001. Claims 1-30 are pending. Claims 1-30 are directed to a method for a "Broadcast Multimedia Delivery System."

Oath/Declaration

2. The oath is objected to as being informal. It lacks authentication by a diplomatic or consular officer of the United States; 37 CFR 1.66(a). This informality can be overcome either by forwarding the original oath to the appropriate officer for authentication or by filing either a declaration under 37 CFR 1.68, or a new properly authenticated oath under 37 CFR 1.66. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. If, however, authentication of the original oath is desired, applicant should request return of the oath for this purpose. Such request must be accompanied by an order for a copy of the oath to be retained in the file until the properly authenticated oath is returned. After the oath has been authenticated, it should be returned promptly to the Patent and Trademark Office. See MPEP §§ 602.01 and 602.02.

Priority

3. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 109(e) or 120 as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional

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application or provisional application); the disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

Claim Objections

4. Claims 9 -14, 23, 28-30 are objected to because of the following minor informalities. Appropriate correction is required.

Above claims are dependent claims, which depend on 1, 20, 26, 24, and 27 respectively. A claim that depends from a dependent claim should not be separated by any claim that does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general applicant's sequence will not be changed. See MPEP §608.01(n).

The preamble of claim 1 should end with a colon and the comma removed after comprising, at line 9 a semicolon should terminate that element of the claim.

Claim 9 "A system claim 1" should be replaced with "A system as in claim 1."

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 14 is rejected under 35 U.S.C. §112 ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the claimed invention. A reasonable artisan skilled in the art could not comprehend the claims as written. The claim recites: "The system of claim 13, wherein said user profile determines the organization and/or content of information stored in accessible on a computer associated with a particular end user." "stored in accessible on a computer" is undefined within the claim language. It is not clear what the boundary of the claim is. Hence, the scope of the claim is unascertainable.

However, in order to expedite a more complete examination the Examiner asserts that this invention is understood as: "The system of claim 13, wherein said user profile determines the organization and/or content of information stored on a computer associated with a particular end user."

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-14 directed to a system are rejected under 35 USC 102(e) as being anticipated by Zuliani et al. (US 6,356,539).

Zuliani teaches an interactive broadcast service, broadcast signals transmitted via a wideband satellite link to end-users. (See abstract).

As to claim 1, Zuliani teaches an electronic distribution system for mass distribution of multimedia simultaneously to numerous end users, comprising: (See Fig. 1)

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(a) a memory device for storing multimedia as a plurality of data blocks; (See Fig. 1 (10) and (4)).

(b) a wireless transmitter associated with said source memory device for transmitting said data blocks as a wireless data stream; (See Fig. 1 (8) and (5) and col. 4, lines 28-37).

(c) a plurality of remote receivers, each remote receiver being associated with one of a plurality of end users, said receivers receiving said wireless data stream transmitted by said transmitter and outputting said data stream as an electrical signal; and (See Fig. 1 and 2) (DBS Service Provider, Home Shopping Service Provider, Financial Service Provider, Other Service are remote receivers associated with a plurality of end users).

(d) a plurality of computing devices, each of said computing devices being associated with a respective one of said receivers, each said computing device comprising a local memory device, software being resident in said local memory device, said software comprising instructions controlling the processing of said data stream, each said remote receiver and its associated computing device cooperating to convert said wireless data stream back into said data blocks, said software being configured to store said data blocks in said local memory device, and being further configured to provide end users with access to said multimedia data. (See Fig. 1 and Fig. 2, col. 3, lines 1-7; col. 4, lines 28-35).

Claim 2:

As to claim 2, Zuliani teaches a system as in claim 1, wherein said wireless transmitter comprises a satellite, and said source memory device is located on the surface of the

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earth and is coupled to said satellite through the use of a wireless ground transmitter.

(See Fig. 1 and col. 3, lines 58-67).

Claim 3:

As to claim 3, Zuliani teaches a system as in claim 1, wherein said data stream further comprises a listing identifying each data block transmitted. (See col. 6, lines 47-52).

Claim 4:

a As to claim 4, Zuliani teaches system as in claim 1, wherein said multimedia data comprises a newspaper. (See col. 1, lines 52-54). (a newspaper is nothing more than text and graphics).

Claim 5:

As to claim 5, Zuliani teaches a system as in claim 1, wherein said multimedia data comprises viewable information having links to other information, said links being actuators for providing the end user with access to the other information. (See col. 3, lines 39-42).

Claim 6:

As to claim 6, Zuliani teaches a system as in claim 5, wherein said links are accessible over a wireless system and/or through a computer network such as the Internet. (See col. 1, lines 54-56).

Claim 7:

As to claim 7, Zuliani teaches a system as in claim 5, wherein said other information comprises data stored in said local memory device. (See col. 5, 32-40 and Fig. 4 (110)).

Claim 8:

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As to claim 8, Zuliani teaches a system as in claim 5, wherein said other information comprises data stored in a remote memory device, said remote memory device being part of the infrastructure of a computer network. (See Fig. 1 (4) and Fig.2)(Archived Video Server).

Claim 9:

As to claim 9, Zuliani teaches a system claim 1, wherein said multimedia comprises text and/or photographs and/or video sequences and/or games and/or music and/or animation, and said multimedia is compressed to reduce bandwidth requirements. (See col. 4 line 64 through col. 5 line 5 and col. 6, lines 47-53).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over

Zuliani et al. (US '539) in view of Ehrlich et al. (US 6,546,427.)

Zuliani teaches an interactive broadcast service, broadcast signals transmitted via a wideband satellite link to end-users. (See abstract).

Claim 10:

As to claim 10, Zuliani teaches a system as in claim 1, wherein the contents of said multimedia data is periodically updated through the transmission of substitute data

blocks which are substituted in memory for already transmitted data blocks having a common identifier.

Zuliani teaches an interactive satellite broadcast system for mass distribution of multimedia to numerous service providers. Zuliani fails to address the periodic update recited by the above claim. However, Ehrlich teaches the retransmission of reformatted multimedia signal to the end user at col. 6, lines 49-53.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of mass distribution of multimedia with the periodic update as taught by Ehrlich.

This system allows a service provider to switch in alternate content without any loss in sequence number as the alternate streaming message is substituted for the original streaming message. Therefore, claim 10 is rejected.

Claim 11:

As to claim 11, Zuliani teaches a system as in claim 1, wherein computing devices associated with users are periodically queried to ensure that data is well received.

Zuliani teaches an interactive satellite broadcast system for mass distribution of multimedia to numerous service providers. Zuliani fails to address the periodic query recited by the above claim. However, Ehrlich teaches authentication of the signaling to the local provider at col. 7, lines 5-6.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of mass distribution of multimedia with the authentication (ensuring data is well received) as taught by Ehrlich.

This system allows for billing the alternate content source. Therefore, claim 11 is rejected.

Claim 13:

As to claim 13, Zuliani teaches a system as in claim 1, wherein the software configured to provide end users with access to said multimedia data, searches for patterns in accessing of said data by said end users to develop the user profile.

Zuliani teaches the conveyance of information that particular services were used at col. 3, lines 40-42. Although it does not specifically address developing a user profile as recited in the claim limitation above. However, Ehrlich teaches password acknowledgement for billing purposes at col. 7, lines 8-12.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of information for particular services with the password acknowledgement for billing purposes as taught by Ehrlich to develop a user profile.

This system allows for accuracy in billing the specific end user rather than someone else and also providing custom service. Therefore, claim 13 is rejected.

Claim 14:

As to claim 14, Zuliani teaches a system as in claim 13, wherein said user profile determines the organization and/or content of information stored in accessible on a computer associated with a particular end user.

This claim is rejected for the exact same reason as claim 13 above.

Claim 12:

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zuliani as applied to claim 11 above, and further in view of Davis (U.S. 5,706,048).

Zuliani teaches an interactive broadcast service, broadcast signals transmitted via a wideband satellite link to end-users. (See abstract).

As to claim 12, Zuliani teaches a system as in claim 1, wherein users are given the option of requesting retransmission of a data block, and data blocks are transmitted when a minimum number of user requests for retransmission of a data block are received, said minimum number being determined by available bandwidth in the electronic distribution system.

Zuliani teaches an interactive satellite broadcast system for mass distribution of multimedia to numerous service providers and Ehrlich teaches a streaming multimedia network with automatically switchable content sources. Neither Zuliani nor Ehrlich address the bandwidth limitation as recited above. However, Davis expressly discloses allocating appropriate bandwidth necessary for the service at col. 2, lines 60-65, col. 9, line 63 to col. 10, line 13.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the combination as articulated in claim 11 with the bandwidth allocation as disclosed by Davis.

This system would allow the end user to take advantage of data networks and information systems even in the absence of a high bandwidth link to information systems. Therefore, claim 12 is rejected.

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Claims 15-30:

These claims do not teach or define any significantly new limitation above and beyond claims 1-14 to warrant particular treatment, and therefore are rejected for similar reasons.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Coffy whose telephone number is (703) 305-0325. The examiner can normally be reached on 8:30 - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SALEH NAJJAR
PRIMARY EXAMINER

Emmanuel Coffy
Patent Examiner
Art Unit 2157

EC

July 9, 2004